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09/913,317	08/10/2001	Maximiliano Zenti	35106/GM/1p	8491

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,317

Applicant(s)

ZENTI, MAXIMILIANO

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

PETER M. POON
SUPERVISING PATENT EXAMINER
TECHNICAL CENTER 3600

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

Priority

1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The abstract of the disclosure is objected to because the word "subsequent" should be - - subsequently- -. Correction is required. See MPEP § 608.01(b).
4. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179

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USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

Drawings

5. The drawings are objected to because the label - -Figure 3- - is not shown on drawing page 1 to indicate figure 3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Preliminary Amendment

6. The preliminary amendment issued by the applicant was received on 8/10/01 as paper number 3. Claims 1-21 have been canceled and new claims 22-42 have been entered for examination as discussed below.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the laying step" in referring to the method of preparing a lawn on page 3 lines 7-8. There is insufficient antecedent basis for this limitation in the claim. The claim should read - -a laying step- -.

Claims 23-42 depend from rejected claim 22 and include all of the limitations of claim 22 thereby rendering these dependent claims indefinite.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim states, "...the preparation of the seeding bed comprises the dosage of the components..." It is not known what the components that are to be dosed are. Therefore the claim is indefinite.

Claim 26 recites the limitation "the mix" in referring to the step of dividing the seeding bed into sods. There is insufficient antecedent basis for this limitation in the claim. The claim should read - -a mix- -.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 25, 29-30, 32, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,584,790 to Gaughen.

Referring to claim 22, Gaughen discloses a method of preparing a plant cultivation, particularly a lawn, comprising, also in a different time sequence, the following operating steps: preparing a seeding bed and introducing seeds therein – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, dividing the seeding bed into sods – 18, cohesion treatment whereby the resulting sod is not brittle makes it possible to maintain a geometric shape and allows proper handling until the laying step is completed – see figure 1 and column 2 lines 55-65 and column 3 lines 35-49, laying the sod – 19, moistening the sod before or after laying and regular watering afterwards – see column 3 lines 32-35 and column 5 lines 61-68 and column 6 lines 1-2, wherein the seeding bed is prepared using dry materials – see column 3 lines 35-49, and before laying the sod a drying step is performed on the sod – 18 – see figure 1.

Referring to claim 25, Gaughen discloses the preparation of a seeding bed is obtained by depositing successive layers of various components – see figures 1-7 and column 3 lines 60-68, column 4 lines 1-68 and column 5 lines 1-68.

Referring to claim 29, Gaughen discloses the introduction of seeds is carried out by depositing a layer of seeds – see column 3 lines 35-49.

Referring to claim 30, Gaughen discloses the drying is nondestructive and reduces the percentage of humidity in the seeding bed to the point at which seed germination is no longer possible and tends to preserve the possibility of rapid future revival of microorganisms activity

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without degrading the natural and chemical organic substances present in the seeding bed – see column 3 lines 50-53 and column 5 lines 31-48.

Referring to claim 32, Gaughen discloses the drying is provided by means of low-temperature heat sources and by air change – see column 5 lines 31-48.

Referring to claim 34, Gaughen discloses the cohesion treatment is performed by laying a layer of adhesive on the entire surface of the sod – see column 3 lines 35-49 and column 5 lines 11-23.

Referring to claim 35, Gaughen discloses a sod for cultivating plants obtained with the method of claim 22, comprising a seeded seeding bed – 100 including a fertilizer – see column 2 lines 55-68 and column 6 lines 9-23 and wrapped or at least held together by a suitable organic bonding agent so as to maintain its shape – see column 3 lines 35-49, column 5 lines 10-24, and column 24-32.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as applied to claim 22 above, and further in view of U.S. Patent No. 4,786,550 to McFarland et al.

Referring to claim 23, Gaughen does not disclose wherein after drying the sod is packaged in a suitable package for its preservation, storage, and transport, preferably under vacuum. McFarland et al. does disclose wherein after drying the sod is packaged in a suitable package for its preservation, storage, and transport, preferably under vacuum – see column 4 lines 13-17 and column 6 lines 59-63. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the packaging the sod in a package for storage and transport of McFarland et al., so as to make the method profitable in that the sod can be shipped and sold since it is packaged for transport.

Referring to claim 24, Gaughen does not disclose wherein the preparation of a seeding bed comprises the dosage of the components and the mixing thereof. McFarland et al. does disclose wherein the preparation of a seeding bed comprises the dosage of the components and the mixing thereof – see figures 1-10 and column 3 lines 53-68 and column 4 lines 1-17. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the preparation of the seeding bed including dosage and mixing of the components of McFarland et al., so as to make ensure that the components comprising the sod are more securely held together so that they won't break apart during the laying process in that the glue is part of the mixture and thus holds all of the sod components together.

Referring to claim 26, Gaughen does not disclose wherein the division into sods occurs by molding the mix in a template, die or by extrusion in the chosen sod shape. McFarland et al. does disclose wherein the division into sods occurs by molding the mix by extrusion in the chosen sod shape – see figures 1-10 and column 3 lines 53-68 and column 4 lines 1-17.

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Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the step of dividing into sods occurring by extrusion in the chosen sod shape of McFarland et al., so as to ensure that the sod maintains the desired shape in that the process is automated and easily controllable.

Referring to claim 28, Gaughen does not disclose wherein the introduction of seeds is carried out by implantation of a seeding machine. McFarland et al. does disclose wherein the introduction of seeds is carried out by implantation of a seeding machine – 62,64,66 – see figures 1-10 and column 3 lines 53-68. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the introduction of seeds by a seeding machine of McFarland et al., so as to make the process quicker and more efficient in that the laying of seeds is automated and thus allows for quicker laying of the seeds and for more seeds to be placed on the sod.

Claims 24, 33, and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as applied to claim 22 above, and further in view of U.S. Patent No. 6,088,957 to Kazemzadeh.

Referring to claim 24, Gaughen does not disclose wherein the preparation of a seeding bed comprises the dosage of the components and the mixing thereof. Kazemzadeh does disclose wherein the preparation of a seeding bed comprises the dosage of the components and the mixing thereof – see figure 2 and column 3 lines 52-67 and column 4 lines 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the preparation of the seeding bed including dosage and mixing of the components of Kazemzadeh, so as to make ensure that the components comprising the sod are

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more securely held together so that they won't break apart during the laying process in that the glue is part of the mixture and thus holds all of the sod components together.

Referring to claim 33, Gaughen does not disclose wherein the cohesion treatment is performed by adding a bonding agent during mixing. Kazemzadeh does disclose wherein the cohesion treatment is performed by adding a bonding agent during mixing – see figure 2 and column 3 lines 52-67 and column 4 lines 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the cohesion treatment performed during mixing of Kazemzadeh, so as to make ensure that the components comprising the sod are more securely held together so that they won't break apart during the laying process in that the glue is part of the mixture and thus holds all of the sod components together.

Referring to claim 36, Gaughen does not disclose wherein the bonding agent is biodegradable. Kazemzadeh does disclose wherein the bonding agent is biodegradable – see column 4 lines 28-59. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the bonding agent being biodegradable of Kazemzadeh, so as to make the process more efficient in that after the sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Referring to claim 37, Gaughen does not disclose wherein the bonding agent comprises at least one colloidal substance. Kazemzadeh does disclose wherein the bonding agent comprises at least one colloidal substance – see column 4 lines 28-59. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and

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add the bonding agent comprising at least one colloidal substance of Kazemzadeh, so as to make the process more efficient in that after the sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as applied to claim 22 above, and further in view of U.S. Patent No. 4,063,385 to Friedberg. Gaughen does not disclose wherein the division into sods occurs by die-cutting. Friedberg does disclose the division of sods occurs by die-cutting – see figures 1-2 and column 2 lines 1-68 and column 3 lines 1-16. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the division into sods by die-cutting of Friedberg, so as to make the cutting operation quicker and easier since it is automated, therefore making the process more efficient.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen as applied to claim 22 above, and further in view of U.S. Patent No. 4,109,395 to Huang. Gaughen does not disclose wherein the drying is performed by exposure in a ventilated greenhouse. Huang does disclose wherein the drying is performed by exposure in a ventilated greenhouse – see figures 1-4 and columns 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and add the drying step performed in a ventilated greenhouse of Huang, so as to protect the sod during the process in that inside the greenhouse the sod is protected from any outside elements that could cause it harm.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen in view of Kazemzadeh as applied to claim 37 above, and further in view of U.S. Patent No. 4,414,776 to

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Ball. Gaughen and Kazemzadeh do not disclose the bonding agent comprises glue of vegetable or animal origin. Ball does disclose the bonding agent comprises glue of vegetable or animal origin – see column 2 lines 60-68. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen and Kazemzadeh and add the bonding agent comprising glue of animal or vegetable origin of Ball, so as to make the process more efficient in that after the sod is placed on the ground, the bonding agent degrades and thus does not prevent water from reaching the seeds, thus making the process more effective and efficient.

Claims 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen in view of Kazemzadeh in view of Ball as applied to claim 38 above, and further in view of Gaughen.

Referring to claim 39, Gaughen further discloses the seeding bed comprises soil which includes mineral substances and at least one organic substance – see column 6 lines 9-23. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen, Kazemzadeh, and Ball and further add the soil containing mineral substances and one organic substance of Gaughen, so as to make the process more efficient and effective in that the minerals and organic substance help the seeds in the sod to grow after the laying and watering steps.

Referring to claim 40, Gaughen further discloses the organic substance comprises one or more fertilizers – see column 6 lines 9-23. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen, Kazemzadeh, and Ball and further add the organic substance containing one or more fertilizers of Gaughen, so

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as to make the process more efficient and effective in that the fertilizers help the seeds in the sod to grow after the laying and watering steps.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen in view of Kazemzadeh in view of Ball as applied to claim 40 above, and further in view of McFarland et al. Gaughen, Kazemzadeh, and Ball do not disclose the sod comprising at least one selective herbicide which hinders the germination and growth of plants which are different from and antagonists of those whose growth is sought. McFarland et al. does disclose the sod comprising at least one selective herbicide which hinders the germination and growth of plants which are different from and antagonists of those whose growth is sought – see column 3 lines 19-23 and column 6 lines 43-52.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaughen in view of Kazemzadeh in view of Ball in view of McFarland et al. as applied to claim 41 above, and further in view of Gaughen. Gaughen further discloses the sod having a geometric shape which makes it possible to cover continuously the surface to be revegetated – see column 2 lines 66-68 and column 3 lines 54-59 which shows the sod covers the surface to be revegetated and it is inherent that the sod has a geometric shape since that is necessary for the sod to continuously cover the surface to be revegetated. Therefore it would have been obvious to one of ordinary skill in the art to take the method of preparing a seeding bed of Gaughen, Kazemzadeh, Ball, and McFarland et al. and further add the sod having a geometric shape to continuously cover the surface to be revegetated of Gaughen, so as to make the process more effective in that the sod is can be placed quickly on the ground thereby making the process quicker and more efficient.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to methods of preparing a plant cultivation and sod in general:

U.S. Pat. No. 4,063,384 to Warren et al. – shows packaging sod under vacuum

U.S. Pat. No. 4,066,490 to Yoshimi – shows method of producing sod

U.S. Pat. No. 4,232,481 to Chamoulaud – shows mixing components to form sod

U.S. Pat. No. 4,318,248 to Muldner – shows method of producing a seeding mat

U.S. Pat. No. 4,786,308 to Colling – shows method of producing sod

U.S. Pat. No. 4,982,526 to Miyachi – shows method of manufacturing sod

U.S. Pat. No. 5,226,255 to Robertson – shows seeding machine and packaging

U.S. Pat. No. 5,555,674 to Molnar et al. – shows sod mat and method of making

U.S. Pat. No. 5,765,304 to Clark – shows cohesion treatment and mineral rich soil

U.S. Pat. No. 5,887,382 to Marshall et al. – shows seed mat with multiple layers

U.S. Pat. No. 6,336,291 to Skuba – shows method of producing and laying sod

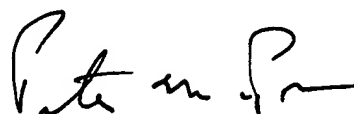
JP Pat. No. 6-54603 to Deyama – shows seed mat with multiple layers

11. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be

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reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



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